



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY - 4 2011

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RE: MUR 6469
(formerly MUR 6305 and RR 10L-08)
Friends of Sharron Angle, *et al.*

Dear Ms. Mitchell:

On June 9, 2010, the Federal Election Commission (the "Commission") notified your clients, Friends of Sharron Angle and Alan B. Mills, in his official capacity as treasurer ("the Committee"), and Sharron E. Angle, of a complaint filed in MUR 6305 alleging that your clients violated the Federal Election Campaign Act of 1971, as amended (the "Act"), and provided them with a copy of the complaint. On October 21, 2010, in RR 10L-08, the Commission notified the Committee, that in the normal course of carrying out its supervisory responsibilities, the Commission became aware of information suggesting that the Committee, may have violated the Act.

After reviewing the allegations contained in the complaint, the information obtained by the Commission in the normal course of carrying out its supervisory responsibilities, your clients' responses, and publicly available information, the Commission on April 28, 2011, found reason to believe that Friends of Sharron Angle and Alan B. Mills, in his official capacity as treasurer, violated 2 U.S.C. § 434(b), a provision of the Act. The Commission further found no reason to believe that Sharron E. Angle violated the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.


Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

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In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. We look forward to your response.

On behalf of the Commission,


Cynthia L. Bauerly
Chair

Enclosures
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENT:** Friends of Sharron Angle and
4 Alan B. Mills, in his official capacity
5 as treasurer
6

MUR 6469

7 **I. BACKGROUND**

8 This matter was generated based on information ascertained by the Federal Election
9 Commission ("the Commission") in the normal course of carrying out its supervisory
10 responsibilities, *see* 2 U.S.C. § 437g(a)(2), and by a complaint filed with the Federal Election
11 Commission by Charles Tait Eckland. *See* 2 U.S.C. § 437g(a)(1).

12 **II. FACTUAL AND LEGAL ANALYSIS**

13 **A. Factual Background**

14 Friends of Sharron Angle and Alan B. Mills, in his official capacity as treasurer, ("the
15 Committee") is Sharron E. Angle's principal campaign committee for her 2009-2010 campaign
16 for U.S. Senate in Nevada. *See* 2 U.S.C. § 431(4) and (5); *see also* Committee's FEC Form 1,
17 Amended Statement of Organization filed August 19, 2010.

18 The Committee originally filed its 2009 Year-End Report on January 29, 2010, and
19 amended it on May 25, 2010, and again on September 1, 2010. The September 1, 2010,
20 amended report, as compared to the originally filed 2009 Year-End Report, disclosed an
21 additional \$272,726.87 in Line 17 Operating Expenditures, an additional \$137,621.79 in Line 10
22 Debts and Obligations Owed by the Committee, and deleted \$105,644.57 in Line 21 Other
23 Disbursements. The Committee originally filed its 2010 April Quarterly Report on April 15,
24 2010, and amended it on May 26, 2010, and again on September 1, 2010. The September 1,
25 2010, amended report, as compared to the originally filed 2010 April Quarterly Report, disclosed

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1 an additional \$270,352.28 in Line 17 Operating Expenditures and an additional \$167,207.96 in
2 Line 10 Debts and Obligations Owed by the Committee. For the reasons set out below, the
3 Commission finds reason to believe that the Committee violated 2 U.S.C. § 434(b) by
4 misreporting its operating expenditures, disbursements, and debts and obligations in its original
5 2009 Year-End Report and by misreporting its operating expenditures and debts and obligations
6 in its original 2010 April Quarterly Report.

7 The Committee's original 2009 Year-End Report disclosed \$71,683.42 in operating
8 expenditures, \$105,644.57 in other disbursements, and disclosed no outstanding debts and
9 obligations. On April 6, 2010, the Reports Analysis Division ("RAD") issued a Request for
10 Additional Information ("RAI") to the Committee referencing the original 2009 Year-End
11 Report and requesting clarification of the omission of debts that were disclosed on previous
12 reports. Mr. Mills responded to RAD on behalf of the Committee by telephone on April 16,
13 2010, and May 10, 2010, as well as by letter dated May 9, 2010, and stated that the report was
14 not complete for several reasons. First, the Committee was waiting for transactional information
15 from its vendor, Base Connect ("BC"). Second, the omitted debts referenced in the April 6,
16 2010, RAI were entered into the database, but not displayed correctly on the report when it was
17 printed. Third, Mr. Mills believed that the FECFile software had moved the debts reported on
18 Line 10 to disbursements on Line 21 (Other Disbursements) in the 2009 Year-End Report, and in
19 other reports. Finally, Mr. Mills stated that he was unclear on how to report activity on Line 10.

20 Subsequently, the Committee amended its 2009 Year-End Report on May 25, 2010, and
21 disclosed \$344,410.19 in operating expenditures, deleted \$105,644.57 in other disbursements,
22 and disclosed \$187,968.64 in debts and obligations. On June 24, 2010, RAD issued an
23 additional RAI referencing the Amended 2009 Year-End Report filed on May 25, 2010, and

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1 requesting clarification on the substantial increases in both disbursements and debts that were not
2 disclosed on the original 2009 Year-End Report. In response to the RFAI, Mr. Mills stated that
3 the activity was accurately disclosed on the amended report and that the increases were due to
4 the Committee not being aware that certain disbursements to vendors needed to be reported. On
5 September 1, 2010, the Committee filed a second amended 2009 Year-End Report disclosing in
6 \$344,410.19 in operating expenditures and \$137,621.79 in debts and obligations.

7 The Committee's original 2010 April Quarterly Report disclosed \$78,595.78 in operating
8 expenditures and no outstanding debts and obligations. On May 26, 2010, the Committee first
9 amended its 2010 April Quarterly Report to disclose \$348,948.06 in operating expenditures and
10 \$280,719.02 in debts and obligations. On June 24, 2010, RAD sent an RFAI to the Committee
11 referencing the Amended 2010 April Quarterly Report filed on May 26, 2010, and requested
12 clarification on the omission of debts that were disclosed on previous reports and on the
13 substantial increases in both disbursements and debts that were not disclosed on the original
14 report. In response to the RFAI, Mr. Mills stated that the activity was accurately disclosed on the
15 amended report and that the increases were due to the Committee not being aware that certain
16 disbursements to vendors needed to be reported. *Id.* On September 1, 2010, the Committee filed
17 a second Amended 2010 April Quarterly Report disclosing \$348,948.06 in operating
18 expenditures and \$167,207.96 in debts and obligations.

19 The available information shows that the Committee's reporting errors were due, in part,
20 to its lack of knowledge about how to report activity related to its vendor BC, with which the
21 Committee has a contract to perform fundraising services and request contributions on behalf of
22 the Committee ("direct mail prospecting activity"). Based on the available information, from
23 October 2009 through August 2010, Mr. Mills, the Committee's treasurer, was in contact with

1 RAD via telephone calls seeking guidance as to how to report direct mail prospecting income,
2 debts, and disbursements, and advising RAD that the Committee was trying to obtain
3 information from its vendor, BC, to complete its reports.

4 In its response to the RAD Referral notification in this matter, the Committee states that it
5 had computer software problems; that RAD analysts were limited to answering compliance
6 questions, not software issues; and that the FECFile software manual provided little guidance on
7 direct mail prospecting reporting. The available information also shows that the Committee
8 contacted the Commission's Electronic Filing Office ("EFO") on May 7, 2010, for technical
9 support, and per EFO's request, emailed the Committee's FECFile data file for troubleshooting.
10 The EFO thereafter left three messages for the Committee, but received no answer. However,
11 the Committee maintains that Mr. Mills repeatedly returned calls to EFO, but was only able to
12 leave voicemails, which EFO did not return.¹ The Committee further maintains that it did not
13 have the resources during 2009 and the first half of 2010 to retain professional compliance
14 software, vendors, consultants, and counsel. After winning the primary, however, the Committee
15 retained a consultant to take over compliance, including reviewing its reports and filing amended
16 reports. Last, the Committee contends that it filed its first set of amendments to the reports in
17 May of 2010, because that is when Mr. Mills figured out how to report direct mail prospecting

¹ According to EFO's technical support phone logs for the Committee, on May 7, 2010, Mr. Mills called requesting technical assistance regarding transactions on the Committee's 2009 Year-End Report, and the EFO asked Mr. Mills to email the data file so they could review the transactions. On May 25, 2010, the EFO left two messages for Mr. Mills. The first message on the morning of May 25, 2010, stated that EFO could not locate the data file he emailed previously and asked that he call EFO back. The second message from EFO on the afternoon of May 25, 2010, stated that EFO located the data file Mr. Mills emailed and requested that he call EFO back to discuss it. EFO left two other messages for Mr. Mills on May 27, 2010, and May 28, 2010, asking him to call the EFO for assistance regarding the data file he emailed previously. There is no record in the EFO logs of Mr. Mills returning the calls the EFO made to him on May 25, 27 or 28, 2010. The Committee's response to the RAD Referral states that Mr. Mills repeatedly returned calls to the EFO, but he was only able to reach EFO's voicemail. It is unclear whether Mr. Mills left messages for the EFO. If Mr. Mills did return the calls, but did not leave voicemail messages, those calls would not be reflected in the phone logs.

1 income, disbursements, and debts. The Committee further amended the reports in September
2 2010 after more information was obtained and available.

3 In its response to the complaint filed in MUR 6305, the Committee states that its errors
4 were inadvertent, and that it first amended its 2009 Year-End Report on May 25, 2010, following
5 its receipt of the April 16, 2010, RFAI from RAD and before the complaint in MUR 6305 was
6 filed. However, the 2009 Year-End Report was not fully corrected until the Committee filed a
7 second amended report on September 1, 2010.

8 **B. Legal Analysis**

9 The Federal Election Campaign Act of 1971, as amended ("the Act"), sets forth
10 requirements for filing of reports for political committees. The treasurer of a political committee
11 must file reports of all receipts and disbursements in accordance with the Act. 2 U.S.C.
12 § 434(a)(1). In both election and non-election years, the principal campaign committee of a
13 candidate for the Senate is required to file, in addition to other required reports, quarterly reports
14 filed no later than the 15th day after the last day of each calendar quarter, and complete as of the
15 last day of each calendar quarter. 2 U.S.C. § 434(a)(2)(A)(iii) and (B). Furthermore, the
16 principal campaign committee of a candidate for Senate is required to file a year-end quarterly
17 report, which shall be filed no later than January 31 of the following calendar year. *Id.* The
18 reports shall disclose, *inter alia*, the amount and nature of outstanding debts and obligations
19 owed by or to the political committee, as well as the total amount of all disbursements, including
20 the appropriate itemizations, where required. 2 U.S.C. § 434(b)(4) and (b)(8); 11 C.F.R.
21 § 104.3(b) and (d).

22 The Committee did not comply with the above reporting requirements when it failed to
23 disclose: 1) \$167,082.30 in operating expenditures and \$137,621.79 in debts and obligations

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1 owed by the Committee in its original 2009 Year-End Report filed on January 29, 2010; and
2 2) \$270,352.28 in operating expenditures and \$167,207.96 in debts and obligations owed by the
3 Committee in its original 2010 April Quarterly Report filed on April 15, 2010. The Committee
4 has amended those reports to disclose the previously omitted expenditures and debts and
5 obligations. The Committee does not dispute the reporting errors and omissions. The violations
6 do not appear to be knowing and willful, as alleged by the complainant, because the Committee
7 initiated efforts to obtain information on how to accurately report the operating expenditures and
8 debts and obligations in connection with direct mail prospecting, and it apprised RAD of its
9 efforts to obtain the information. The available information does not suggest that the candidate
10 has any personal liability.

11 Therefore, there is reason to believe Friends of Sharron Angle and Alan B. Mills, in his
12 official capacity as treasurer, violated 2 U.S.C. § 434(b), and there is no reason to believe
13 Sharron E. Angle violated the Federal Election Campaign Act of 1971, as amended, or the
14 Commission's regulations.